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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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James McNabb

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EXAMINER

STRANGE, AARON N

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/915,287	<b>Applicant(s)</b> MCNABB ET AL.	
	<b>Examiner</b> AARON STRANGE	<b>Art Unit</b> 2453	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10/3/08.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4,6-10 and 46-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 46-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20081003</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-10 and 46-52 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-4, 6-10 and 46-52 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.
4. Claim 1 is directed to a "system" comprising "a director", a plurality of "participant managers" and "a turnstile". Based on the specification, these elements appear to be software programs. Since the claim contains no positive recitations of any hardware elements, the claim includes at least some software-only embodiments. Since the claim is not limited to statutory embodiments, it is non-statutory.
5. Claims 2-4, 6-10 and 46-52 are rejected by virtue of their dependency from the above claims and their failure to remedy the above noted deficiencies.

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***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 4, 6-10 and 46-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monteiro et al. (US 5,778,187) in view of Honjo et al. (US 2002/0049912).

8. With regard to claim 1, Monteiro discloses a system for managing a plurality of participants to an event comprising:

a director (primary server) having an address (IP address) associated therewith for delivering the event to the plurality of participants (primary servers are the root servers for each channel and are connected to the Internet)(Fig. 1; col. 3, ll. 4-8; col. 4, ll. 31-36);

a plurality of participant managers (media servers) installed within a network communication system and logically connected amongst themselves and to said director thereby forming a hierarchy (Fig. 1; col. 5, ll. 31-36), the director forming a root of the hierarchy, the participant managers forming branches of the hierarchy, and the participants forming leaves of the hierarchy (Fig. 1; col. 5, ll. 31-36); and

a turnstile (User software) installed at and associated with each of the plurality of participants (col. 13, ll. 9-11), each turnstile logically connected to one of said plurality of participant managers in said hierarchy based on an association between the turnstile and one or more characteristics of the network communication system (turnstile connects to the first available media server)(col. 14, ll. 34-44).

However, Monteiro fails to specifically disclose that the turnstile performs a first authentication on a ticket for the event received by the associated participant to locally determine whether the ticket is valid or that the participant manager performs a second authorization to determine whether the valid ticket is authentic.

Honjo discloses a similar system for controlling access to network resources (abstract). Honjo teaches using of a first authentication to locally determine whether a ticket is valid (program 21 determines whether or not a valid ticket is available)(¶147), followed by the server performing a second authentication to determine whether ticket is authentic (server verifies whether the ticket is valid and authentic)(¶151-152). This would have been an advantageous addition to the system disclosed by Monteiro since it would have allowed the client to determine whether it had a valid, unexpired ticket before making a request, eliminating requests using invalid tickets, and also allowed the server to ensure that tickets are authentic.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a two stage authentication system to eliminate requests made using expired, invalid tickets while ensuring that tickets are authentic and belong to the party making the requests.

9. With regard to claim 4, Honjo further discloses that said associated participant presents said turnstile the ticket to gain access to the event (ticket control access to requested content)(¶144).

10. With regard to claim 6, Monteiro further discloses that said turnstile forwards a valid ticket to said connected participant manager for authentication (user provides token to media server when requesting content)(col. 9, ll. 34-40; col. 15, ll. 14-27).

11. With regard to claim 7, Monteiro further discloses that said connected participant manager communicates authorization to said turnstile upon determining said ticket is authentic (media server replies with a Result Message Object indicating success, after verifying that the username/password is authentic) (col. 14, ll. 6-9; col. 14, ll. 49-50; col. 15, ll. 14-26).

12. With regard to claim 8, Monteiro further discloses that said director provides event information to said connected participant manager (col. 3, ll. 9-10).

13. With regard to claim 9, Monteiro further discloses that said turnstile prevents said associated participant from receiving the event until a ticket associated with the event is authenticated (user must authenticate each time they wish to use the system)(col. 13, ll. 64 to col. 14, ll. 4).

14. With regard to claim 10, Monteiro further discloses that said turnstile prevents said associates participant from receiving the event until a ticket associated with the event is determined to have been provided to said associated participant (user must authenticate each time they wish to use the system)(col. 13, ll. 64 to col. 14, ll. 4).

15. With regard to claim 46, Monteiro further discloses that the characteristics include at least one of a network point of entry, a geographic location, network congestion, or network performance (turnstile connects to the first available media server)(col. 14, ll. 34-44).

16. With regard to claim 47, Honjo further discloses that the ticket associated with the event includes first authentication information (the “ticket” portion)(¶148) and second authentication information (session key)(¶148), wherein the first authentication information is used by the turnstile to locally determine whether the ticket is valid (¶147), and the second authentication information is used by the connected participant manager to determine whether the ticket is authentic (¶151-152).

17. With regard to claim 48, Honjo further discloses that the ticket is determined to be a valid ticket if the ticket is determined to be associated with the event (ticket must match the server policy to allow access)(¶122).

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18. With regard to claim 49, Honjo further discloses that the valid ticket is determined to be authentic if the valid ticket is determined to have provided to said associated participant who is in possession of the valid ticket (ticket is authenticated using the authenticator created by the user that requested the ticket)(¶147-152).

19. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monteiro et al. (US 5,778,187) in view of Honjo et al. (US 2002/0049912) further in view of Jung et al. (US 6,308,208).

20. With regard to claims 2 and 3, while the system disclosed by Monteiro and Honjo shows substantial features of the claimed invention (discussed above), including turnstiles sending delivery statistics regarding said associated participant to said connected participant manager (col. 14, ll. 59-63), it fails to specifically disclose that the delivery statistics are propagated up the hierarchy to the director and aggregated.

Jung discloses a system for monitoring a network. Jung teaches collecting statistics from resources in the network, and propagating them up the hierarchy, eventually reaching a central monitoring node (col. 8, ll. 17-39). This would have been an advantageous addition to the system disclosed by Monteiro since it would have allowed the entire distribution network to be monitored using a large number of relatively small and simple monitors. This type of monitoring is less expensive and lower maintenance, particularly for large networks (Jung; col. 1, ll. 26-34; col. 5, ll. 42-45).



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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to propagate the delivery statistics up the hierarchy from low level monitors to the director in order to automatically monitor the network using a large number of inexpensive, low maintenance monitors.

21. Claims 50-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monteiro et al. (US 5,778,187) in view of Honjo et al. (US 2002/0049912) further in view of Official Notice.

22. With regard to claims 50-52, while the system disclosed by Monteiro and Honjo shows substantial features of the claimed invention (discussed above), it fails to specifically disclose limiting the number of tickets to the events or allocating the limited number tickets in a particular manner.

The Examiner takes Official Notice that limiting the number of users who may simultaneously access shared data via a network was old and well known in the art at the time the invention was made as a means to control network congestion and improve user's ability to access content. One of ordinary skill in the art could have easily controlled the number of users accessing a particular event by limiting the number of tickets available to access the content, and would have seen the benefits of doing so, including controlling network congestion to ensure that all users could access the event.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to fix the number of tickets available to an event to control

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network congestion and ensure that all users have access to the event with acceptable quality.

### ***Conclusion***

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to AARON STRANGE whose telephone number is (571)272-3959. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aaron Strange/  
Examiner, Art Unit 2453